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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/813,141	03/29/2004	Ronald W. Schutz	1772019US1AP	5414
27542	7590	10/01/2004	EXAMINER	
SAND & SEBOLT AEGIS TOWER, SUITE 1100 4940 MUNSON STREET, NW CANTON, OH 44718-3615			GRAHAM, MARK S	
			ART UNIT	PAPER NUMBER
			3711	

DATE MAILED: 10/01/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

**Application No.**

10/813,141

**Applicant(s)**

SCHUTZ ET AL.

**Examiner**

Mark S. Graham

**Art Unit**

3711

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-29 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-29 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 3/29/04.
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: \_\_\_\_.

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Claim 23 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 23 claiming the stepped portion is dependent on claim 22 which claims the tapered portion. Based on the specification and drawings it appears that claim 23 should be dependent on claim 21 as a separate embodiment.

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 26 and 29 are rejected under 35 U.S.C. 102(b) as being anticipated by Sutherland. Note paragraphs 54-56 of Sutherland.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 2-20, 24, 25, 27, and 28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sutherland.

Absent a showing of unexpected results the exact strength, flexibility, and dimensional characteristics of Sutherlands stick would obviously have been up to the ordinarily skilled artisan depending on the strength and playing characteristics desired by the particular player using the stick.

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Concerning claims 20, and 28, the examiner takes official notice that such materials are commonly known and would have been suitable for use as Sutherland's titanium material.

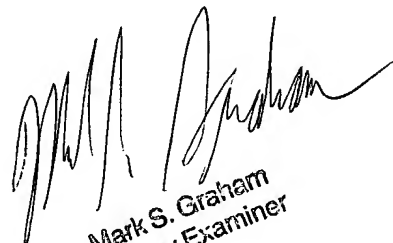
Claims 21 and 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sutherland in view of Kunisaki et al. (Kunisaki). Sutherland discloses the claimed device with the exception of the hosel portion dimension relative to the upper portion of the shaft. However, as disclosed by Kunisaki it is known in the art to provide the hosel portion of the shaft with a thinner wall to allow for connection of a metal tip to prevent damage during removal of a blade. It would have been obvious to one of ordinary skill in the art to have provided such a tip necessitating a narrower lower shaft portion with Sutherland's stick as well for the same reason.

Claim 22 is rejected under 35 U.S.C. 103(a) as being unpatentable over Sutherland in view of Merola. Sutherland discloses the claimed device with the exception of the tapered wall portion. However, as disclosed by Merola it is known to form sport stick shafts with tapered walls such that the handle has thicker walls than the hitting portion. It would have been obvious to one of ordinary skill in the art to have done the same with Sutherland's shaft if it was desired to make the handle portion stronger.

Snow, Masters et al., Whayne, Cheng, Kingston, and Tahtinen et al. have been cited for interest because they disclose similar devices.

Any inquiry concerning this communication should be directed to Mark S. Graham at telephone number 703-308-1355.

MSG  
9/23/04



Mark S. Graham  
Primary Examiner